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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130710605-3605-01]

RIN 0648-BD41

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Shrimp Fishery of the Gulf of Mexico; Establish Funding  
Responsibilities for the Electronic Logbook Program

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed changes to management measures; request for  
comments.

SUMMARY: NMFS proposes to establish funding responsibilities  
for an upgrade to the shrimp electronic logbook (ELB) program as  
described in a framework action to the Fishery Management Plan  
for the Shrimp Fishery of the Gulf of Mexico (FMP), as prepared  
by the Gulf of Mexico (Gulf) Fishery Management Council  
(Council). Newer and more efficient ELB units have been  
purchased by NMFS for the Gulf shrimp fleet and are available  
for installation on Gulf shrimp vessels. If the framework  
action is implemented, the proposed changes to the management  
measures would include establishing a cost-sharing program to  
fund the ELB program. The proposed changes would require NMFS

to pay for the software development, data storage, effort estimation analysis, and archival activities for the new ELB units, and vessel permit holders in the Gulf shrimp fishery to pay for installation and maintenance of the new ELB units and for the data transmission from the ELB units to a NOAA server. The purpose of the proposed changes is to ensure that management of the shrimp fishery is based upon the best scientific information available and that bycatch is minimized to the extent practicable.

DATES: Written comments must be received on or before [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed changes to the management measures, identified by "NOAA-NMFS-2013-0127" by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0127](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0127), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the

comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the framework action, which includes a Regulatory Flexibility Act analysis and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/shrimp/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/index.html).

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed changes to the management measures may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by e-mail at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, Southeast Regional Office, NMFS, telephone: 727-824-5305; email: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

SUPPLEMENTARY INFORMATION: The shrimp fishery of the Gulf is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

The final rule implementing Amendment 13 to the FMP, which published on September 26, 2006 (71 FR 56039), established the requirement for an ELB program for the Gulf shrimp fishery. The program is administered by NMFS and is a cost-effective way to accurately determine the amount and location of effort occurring in the shrimp fishery in the Gulf exclusive economic zone (EEZ). Current regulations require vessels to participate in the ELB program, if selected by the NMFS Science and Research Director (SRD).

The ELB program provides data on Gulf shrimp fishing effort that are critical to both the Council and NMFS in performing annual assessments of the status of shrimp stocks. The ELB program is also a key component in the Council's red snapper rebuilding plan because accurate estimates of juvenile red snapper mortality attributable to the shrimp fishery are

essential data for red snapper stock assessments. Accurate estimates of shrimp fishing effort from the ELB program are also used to generate mortality estimates on a number of other species captured as bycatch in the shrimp fishery. In particular, the effort information from the ELB program is used to estimate and monitor incidental sea turtle takes.

Currently, NMFS funds the deployment of ELB units on approximately 500 shrimp vessels, roughly one-third of the offshore fleet. The previous contract expired on March 31, 2013; a new contract with the Gulf States Marine Fisheries Commission extended the services and will expire December 31, 2013. The contract for the current ELB program will lapse because funding is not available at this time. NMFS recently purchased newer and more efficient ELB units and they are now available for installation. To continue the ELB program, additional funding is needed regardless of the equipment used. Therefore, the Council voted for a framework action to require vessel permit holders in the Gulf shrimp fishery to share in the cost of the ELB program. If additional funding becomes available, the current ELB units could be continued to be used for multiple years to allow a smoother transition to the new ELB units, and sharing the costs of the ELB program with the shrimp fishery may not be necessary.

Cost-sharing for the Gulf Shrimp ELB Program

NMFS purchased the new ELB units for each of the vessel permit holders in the Gulf shrimp fishery through the NMFS vessel monitoring system (VMS) program, an estimated one-time cost of \$1,100,000 for 1,500 vessels. If the cost-sharing program is implemented, NMFS would pay for the software development, data storage, effort estimation analysis, and archival activities, which are estimated to cost approximately \$313,791 annually. Vessel owners would pay for installation and maintenance of the new ELB units and the data transmission from the ELB units to a NOAA server. The initial installation cost would be approximately \$200 per vessel, and the annual wireless provider contract (data transmission) cost is estimated to be \$720 per vessel. This division of costs between NMFS and the shrimp fishery is similar to the Gulf reef fish VMS program, and other cost sharing data reporting programs within NMFS throughout the U.S.

NMFS initially sent a letter to each vessel permit holder in the Gulf shrimp fishery outlining the upgraded ELB program. This letter included the timeline and process for installation of the new ELB units.

If the cost-sharing program is implemented, NMFS will, in a subsequent letter, inform vessel owners that they have been selected to participate in this program, and that they have a total of 90 days to comply with the regulations to install and

activate their new ELB units including 30 days to activate a wireless account and 60 days to install the new ELB unit after it has been shipped by NMFS and received by the vessel owner. These vessel owners must contact Verizon Wireless, the wireless provider, by e-mail at [VZWGulfCoastELB@VerizonWireless.com](mailto:VZWGulfCoastELB@VerizonWireless.com), or by phone: 888-211-3258, to initiate service for the new ELB unit.

#### No Changes to Regulatory Text

The framework action and the proposed changes would not require any changes to the current regulatory text within § 622.51(a), "Commercial vessel owners and operators," regarding the requirements for the Gulf shrimp ELB program. This is because the current regulations specify that the SRD will select the vessel owners who will participate in the ELB program and how the ELB program is administered, and this would not change in this rulemaking. The proposed changes would revise the funding responsibilities for the ELB program, which are described in the FMP; however, the regulatory text would not change. The changes to the management measures are being proposed pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the

framework action is consistent with FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The proposed changes to the management measures have been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) for the proposed changes to the management measures, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that the proposed changes, if implemented, would have on small entities. A description of the action, why it is being considered, and the objectives of and legal basis for this action are contained in the preamble. A copy of the full analysis is available from the NMFS (see ADDRESSES). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for the proposed changes to the management measures. No duplicative, overlapping, or conflicting Federal rules have been identified.

The ELB program for the Gulf shrimp fishery, established through the final rule to implement Amendment 13 to the FMP in 2006, required selected vessels to carry ELB units. The proposed changes to the management measures would require selected vessels to carry new ELB units that are more modern and



technologically advanced. From the standpoint of technical and professional skills needed, the new ELB units do not materially differ from the current ELB units. In fact, the new ELB units would no longer require a technician to meet vessels to pull and program the memory card. Data collected by ELB units would be automatically transmitted to NMFS servers via a cellular phone connection activated when the vessel is within non-roaming cellular range. A key feature introduced by the proposed changes is that the vessel permit holders in the Gulf shrimp fishery would share the cost of the ELB program, whereas currently all costs of the ELB program are borne by the government. Each federally permitted shrimp vessel would be responsible for the one-time cost of installing the ELB unit (\$200) and the annual cost of data transmission (\$720) through a contract with the service provider. The vessel permit holders would also be responsible for the cost of repairing or replacing the ELB unit. The replacement of one ELB unit is estimated at about \$425.

NMFS expects the proposed changes to the management measures to directly affect commercial fishermen with valid or renewable Federal Gulf shrimp permits for harvesting penaeid shrimp in the Gulf Exclusive Economic Zone (EEZ). The Small Business Administration has established small entity size criteria for all major industry sectors in the United States,

including fish harvesters. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$19.0 million from finfish fishing (NAICS code 114111), or \$5.0 million from shellfish fishing (NAICS code 114112), or \$7 million from other marine fishing (NAICS code 114119) for all of its affiliated operations worldwide. For for-hire vessels, all qualifiers apply except that the annual receipts threshold is \$7.0 million (NAICS code 713990, recreational industries).

The Federal Gulf shrimp permit has been placed under a moratorium since 2007. At the start of the moratorium, 1,915 vessels qualified and received Gulf shrimp permits. Over time, the number of permitted shrimp vessels declined, and in 2012 there were 1,582 such permitted vessels. According to the Southeast Regional Office Web site, the Constituency Services Branch (Permits) unofficially listed 1,431 holders of Gulf shrimp permits as of June 25, 2013.

During 2006 through 2010, an average of 4,582 vessels fished for shrimp in the Gulf EEZ and state waters, of which 20 percent held Gulf shrimp permits. Despite being fewer in number, vessels with Gulf shrimp permits accounted for an average of 67 percent of total shrimp landings and 77 percent of

total ex-vessel revenues. Of all vessels with Gulf shrimp permits, 73 percent were active and 27 percent were inactive (i.e., did not commercially fish).

During 2006 through 2010, an average permitted shrimp vessel generated revenues from commercial fishing ranging from around \$205,000 to \$244,000. An average active permitted vessel had revenues from commercial fishing ranging from around \$233,000 to \$274,000. As may be expected, revenues from commercial fishing for an average inactive permitted vessel were practically none.

Based on the revenue figures above, all permitted shrimp vessels are expected to be directly affected by the proposed changes to the management measures and are determined for the purpose of this analysis to be small business entities.

Because all directly affected entities have been determined, for the purpose of this analysis, to be small entities, NMFS determined that the proposed action would affect a substantial number of small entities.

Because NMFS determined that all entities expected to be affected by the proposed changes to the management measures are small entities, the issue of disproportional effects on small versus large entities does not arise in the present case.

The vessel permit holders' share of the cost of the ELB program consists of a one-time cost of installing the ELB unit,

an annual cost of transmitting data from the ELB unit to NMFS servers, and a periodic cost of repairing or replacing defective ELB units. On a per vessel basis, the installation cost is \$200 and the annual data transmission cost is \$720. In the event of equipment failure, the cost of repair could run from a small amount to \$425, which is the cost of replacing an ELB unit.

During 2006 through 2010, an average permitted shrimp vessel had negative net operating revenues in all years, except 2009. Its net profits (i.e., net operating revenues plus net receipts from non-operating activities, such as government payments) were positive in 2006 (\$2,961), 2009 (\$1,238), and 2010 (\$94,279). However, it should be noted that the 2010 profits came mainly from earnings associated with the Deepwater Horizon MC252 (DWH) oil spill in the form of damage claims and revenues from the vessel's participation in BP's clean-up program. Without these oil spill related revenues, net profits in 2010 would have been negative \$2,480.

For active permitted shrimp vessels, net operating revenues were negative in all years during 2006 through 2010. In addition, profits in all years were negative, except in 2010. Again, the positive net profits in 2010 were due to revenues associated with the DWH oil spill. The situation is worse for inactive permitted shrimp vessels, with net revenues and profits (except for 2010) being more negative than those of active

permitted shrimp vessels. The average inactive permitted shrimp vessel had higher net profit in 2010 than the average active permitted shrimp vessel.

The cost of the ELB program would impose a significant impact on the profits of an average permitted shrimp vessel. The effects would be even more significant for vessels that are not active in the fishery. It is noted that there are some vessels that are substantially more profitable than the average vessel, and thus would be able to absorb the per vessel cost of the ELB program. However, there are other vessels that are only slightly more profitable than the average vessel, and very likely the impacts on their profits would be significant.

The following discussion analyzes the alternatives that were not selected as preferred by the Council.

The proposed action would continue the ELB program. Being adjudged and proven to be very effective in collecting shrimp effort data in the Gulf EEZ, continuation of the ELB program has been deemed necessary so that NMFS could effectively carry out its mandate to base conservation and management measures on the best scientific information available and to minimize bycatch to the extent practicable. Therefore, no other alternative to collect shrimp effort data was considered.

However, three alternatives, including the preferred alternative, were considered for funding the ELB program. As

noted above, the preferred alternative would provide for cost sharing between NMFS and the vessel permit holders in the Gulf shrimp fishery. The second alternative would require NMFS to bear the entire cost of the ELB program. NMFS has recognized the vital role the ELB program has played in estimating shrimp effort in the Gulf, but due to tight budget constraints, NMFS cannot fully fund the ELB program. The third alternative would require the vessel permit holders to fund the entire cost of the ELB program. For several years now, the Gulf shrimp industry has been in relatively dire financial condition, thus the Gulf shrimp fishery indicated that funding the entire cost of the ELB would not be possible.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

The proposed changes to the management measures contain collection-of-information requirements subject to the PRA. NMFS estimates the requirement for the Gulf shrimp fishery to share in the costs of the new ELB units, which includes installation (\$200) and data transmission (\$720), to average 1 hour and \$920

per response for the first year. After the first year, NMFS estimates the requirement for vessel permit holders in the Gulf shrimp fishery to share in the costs of the new ELB units, which includes data transmission, to average 1 hour and \$720 per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

These requirements have been submitted to OMB for approval. NMFS seeks public comment regarding: Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimate or any other aspect of the collection-of-information

requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

Authority: 16 U.S.C. 1801 et seq.

Dated: September 30, 2013.

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Alan D. Risenhoover, Director, Office of Sustainable Fisheries,  
performing the functions and duties of the Deputy Assistant Administrator  
for Regulatory Programs, National Marine Fisheries Service.

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